

## IMPLEMENTATION TEAM CONFERENCE CALL

November 17, 1997  
National Marine Fisheries Service Offices  
Portland, Oregon.

A conference call, to finalize agenda items for the November 21 Executive Committee meeting, was convened on November 17. The facilitator was Brian Brown of NMFS; other call participants included Tony Nigro of ODFW, Jim Fodrea of USBR, Doug Arndt of the Corps of Engineers; Michele DeHart of the Fish Passage Center; Jim Yost of the Idaho Governor's office; Tom Cooney of WDFW, Dan Daley of BPA, David Arthaud of the Shoshone-Bannock Tribes, Norm Semanko of the Upper Snake River Water Users and Dan Rohlf, representing a variety of fishery-related environmental groups. The following is a distillation – not a verbatim transcript – of items discussed at the meeting.

There are two issues on the agenda for today's discussion, Brown began – the Upper Snake water delivery issue, and the 1998 juvenile transportation question for the ISAB. The Upper Snake issue can be divided into two main components: is the issue ready for Executive Committee discussion, and second, what will be presented in the post-season review? Taking these items in reverse order, said Brown, at the November 5 IT meeting, we received a briefing on all aspects of the 1997 operation: physical conditions, biological monitoring results, 1997 research products, the effects of the 1997 operation on other uses and so forth.

At the November 21 Executive Committee meeting, I will attempt to summarize from each of those presentations the issues and questions that arose in 1997 that the IT and/or the TMT will be working on in preparation for 1998, Brown said. From my perspective, the Upper Snake water management issue should be presented as part of that review. There was an Implementation Team conference call on August 21 concerning planned Upper Snake releases in September and October, and the possibility of transferring some of that water into late August. That ultimately did not occur, said Brown, and I have a memo from that conference call, dated August 22, summarizing the reasons it did not occur -- primarily because it would have caused spill at Idaho Power Company projects for which BPA was unwilling to reimburse IPC.

As far as what we do with that issue, Brown continued, it seems to me that beyond presenting a factual account of what happened in 1997, and alerting the EC that this is an issue that needs to be addressed in the 1998 Water Management Plan and in the TMT guidelines, I don't believe that this is an issue that is ripe for Executive Committee decision at this time – I think it needs more work at the Implementation Team level first. Do others have a different view?

There is some discomfort within my agency with the characterization that the additional water deliveries in August didn't happen because BPA was unwilling to compensate Idaho Power, said Daley. It isn't that we weren't willing; there was no vehicle through which that compensation

could have taken place. There is no contract language presently in place that allows us to compensate for spill, he explained. Such an arrangement would also have been in violation of our other agreement with Idaho Power, which allows water to be released under state law, Daley said – it was our interpretation that this release would have exceeded the 427 KAF that is allowed under state law. There is also a stipulation in the Idaho state law that all of that water must be released for in-state hydropower generation, and spilling is not in-state hydropower generation. That isn't to say that BPA would have provided the necessary compensation, even if these concerns did not exist, Daley said. However, simply saying that the spill did not occur because BPA was unwilling to compensate Idaho Power is an oversimplification of a more complex issue.

Do you have some documentation that would more clearly lay out BPA's view of how this issue has been mischaracterized? asked Brown. I can probably get you something in the next day or two, Daley replied. That would be helpful, Brown said; however, this only adds to my sense that this issue is not yet sharply-enough defined for presentation to the EC.

I agree with that general statement, said Nigro; however, I think the Upper Snake issues have been adequately discussed at the IT level to allow for them to be brought up as part of the 1998 heads-up presentation under the existing EC agenda on the 21st. There are some obvious differences of opinion regarding what the BiOp contemplates with respect to the 427 KAF and volumes above that, and what role the TMT can assume with respect to advising the federal government on operations involving Upper Snake water and the benefits of those operations for listed species. Even though the IT isn't prepared at this time to present a detailed issue paper to the Executive Committee on the specifics of these issues or possible ways they could be resolved, it's still something the EC needs to be made aware of – in all likelihood, they will be asked to resolve the Upper Snake issue prior to the 1998 migration season, Nigro said. I don't think it should be a separate agenda item, but it should be a part of your report on issues that will be important in 1998. And that is what I'm proposing, Brown said. Fodrea seconded the above-outlined approach, saying that he would like the IT to have further opportunity to resolve the Upper Snake issue before it is referred to the EC.

Any additional comments on this issue? asked Brown. I take it that the Executive Committee will not be asked to make a decision on this issue, said Rohlf – does that mean the status quo will prevail? By that I mean Idaho's interpretation that the 427 KAF will be provided whenever Idaho feels like it, that no water above that volume will be provided, and that NMFS will not be making an effort to get any more water out of the Upper Snake? First, I don't consider this a dead issue, Brown replied – it is still being worked by the Implementation Team. Second, in terms of seeking additional water under the BiOp, my answer would be that we're not really looking to refine the BiOp or add water to it at this point, said Brown – the memo I alluded to earlier basically said that, given that the operation that was being discussed was above and beyond the minimum required by the BiOp, if the other parties concluded that that was something that was not going to happen, the only thing NMFS would require was that they explain why, and document their decision for the record.

Has NMFS come to any position about what is or is not required under the Biological Opinion, either out of Idaho Power or the Bureau of Reclamation? asked Rohlf. From my perspective, yes, Brown replied – we thought we had defined that pretty well in the Biological Opinion. There is nothing in the BiOp that would limit the ability of NMFS or the other Salmon Managers

to make recommendations or requests for additional water above the 427 KAF. However, the bottom line is that the only thing that is actually required from the Upper Snake under the Biological Opinion is 427 KAF.

So the 237 KAF out of Brownlee is mythical? asked Rohlf. The Brownlee requirements identified in the BiOp are expressed in terms of reservoir limits, Brown replied – I admit that how you convert that into a volume of water is a function of where you are at any given point in the season. That’s why it’s left as something for TMT to wrestle with in-season.

When you tell the Executive Committee that the IT is working on this issue, do you have a plan you’re going to present as to what “working on this” means? asked DeHart. To me, it means that the Water Management Plan and the TMT guidelines need to address this issue with greater clarity, given the different interpretations to which previous versions of these documents have been subjected, Brown replied. So your intent would be to redraft the TMT guidelines to provide additional clarity on this issue? asked DeHart. Or to reaffirm what they currently say, said Brown.

My concern is that virtually all of the important Upper Snake issues – accounting for the 427 KAF and 237 KAF, spill at the Hells Canyon complex, BPA’s ability to pay for special operations, flow limits at Milner – have already been discussed extensively by the IT and TMT, said DeHart. I don’t disagree that the IT needs to try to work these issues out, but I wonder what will be different this time around.

Do you intend for this to be discussed at the TMT level or the IT level? asked Yost. I think it would be beneficial for the IT to frame the issue more precisely before simply handing it off to the TMT, Brown replied. The bottom line is, the TMT should be able to ask whether a given operation is the best that can be devised, given the fact that there are variations in any given year that may be more fish-friendly, and that do not impose hardship on other water users. That’s true whether we’re talking about how to provide the 427 KAF, or about how to capitalize on an opportunity to provide an additional volume above the 427 KAF, said Brown. In either case, the TMT would seem to be a good place to have that discussion.

The Bureau’s letter in early September expressed a certain amount of weariness in saying no to additional volume requests, and a desire to say no categorically to requests that do not meet certain parameters, such as being within the 427 KAF requirement, said Brown. I don’t think that’s wise or consistent with the BiOp, he said – there has to be more substance to the “no” than the fact that a given operation is not required by the BiOp.

The next item we need to discuss today is the transport question for the ISAB, said Brown. As agreed at the November 12 IT conference call, Tom Cooney and Tony Nigro have developed a revised question; Mike Schiewe of NMFS has provided some comments. Basically, the revised question includes an introduction: the comprehensive review of the potential of transport to meet survival objectives over the long term is underway through PATH; in the meantime, the BiOp defines interim improvements to facilities, current operations and how transport is implemented annually. Those are based on historical information, existing uncertainties, and the need to generate additional information.

Tom and Tony suggest that we ask the ISAB whether, based on the review and analyses of

existing empirical data, including the inherent uncertainties, there are real and significant differences, under the range of flow conditions for which data exists, in survival to adult returns, said Brown. In a similarly-phrased question, they ask if there are differences in the straying rate between transported fish and fish left to migrate in-river. Finally, said Brown, based on a review of those differences in adult returns and straying rate, what is the likelihood that collection and transportation at the Snake River projects and McNary Dam in 1998 will result in increased adult returns?

The bottom line is that I think there was a meeting of the minds between Oregon, Washington and NMFS with regard to the phrasing of this question to the ISAB, Brown said. What I would like to do today is to take any comments you might have, and to set a time-limit by which additional comments must be received. I agree, said Yost – distribute the actual question by fax, and we will respond by the drop-dead date. After some minutes of additional discussion, Brown agreed to distribute this document to the Implementation Team by tomorrow, and asked that any comments be submitted to him by close of business Thursday, November 20. Barring any show-stoppers, he said, I will present it to the EC on Friday as the question that is being referred to the ISAB.

With that, the meeting was adjourned. Meeting notes prepared by Jeff Kuechle, BPA contractor.